

Planned
12/13/2017
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9:51AM

James A. Maggs, Esquire
MAGGS & McDERMOTT, LLC
 3349 Highway 138
 Building C, Suite D
 Wall, New Jersey 07719
 T. (732) 223-9870
 F. (732) 223-7367
 Attorneys for Plaintiff
 Our File Number: 3329.0135

CT2017001952

THE PLASTIC SURGERY CENTER, LLC	:	SUPERIOR COURT OF NEW JERSEY
	:	LAW DIVISION
	:	MONMOUTH COUNTY
Plaintiff	:	
vs.	:	DOCKET NUMBER: MON-L-4196-17
AETNA HEALTH, INC.	:	
Defendants	:	SUMMONS

THE STATE OF NEW JERSEY, TO THE ABOVE DEFENDANT(S): Aetna Health, Inc.

YOU ARE HEREBY SUMMONED in a Civil Action in the Superior Court of New Jersey, instituted by the above named plaintiff(s), and required to serve upon the attorney(s) for the plaintiff(s), whose name and office address appears above, an answer to the annexed complaint within 35 days after the service of the summons and complaint upon you, exclusive of the day of service. If you fail to answer, judgment by default may be rendered against you for the relief demanded in the complaint. You shall promptly file your answer and proof of service thereof in duplicate* with the Clerk of the Superior Court, Monmouth County Court House, 71 Monument Park, Freehold, New Jersey, in accordance with the rules of civil practice and procedure.

If you cannot afford to pay an attorney, call a Legal Services Office. An individual not eligible for free legal assistance may obtain a referral to an attorney by calling a county lawyer referral service. These numbers may be listed in the yellow pages of your phone book. The phone numbers for the county in which this action is pending are Lawyer Referral Service, 732-431-5544, Legal Services Office, 732-866-9009.

/s/ MICHELE M. SMITH

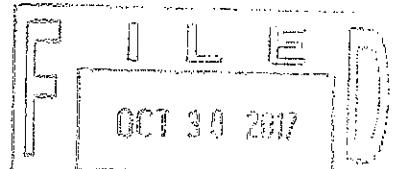
Michele M. Smith, Clerk
 Superior Court of New Jersey

DATED: December 6, 2017

Name of defendant to be Served: Aetna Health, Inc.
 Address for service: 980 Jolly Road
 Blue Bell, Pennsylvania 19422

<u>SUPERIOR COURT CLERKS</u>		
Atlantic County Clerk Atlantic County Civil Courthouse 1201 Bacharach Boulevard First Floor Atlantic City, New Jersey 08401	Bergen County Clerk Bergen County Case Processing Section 119 Justice Center Ten Main Street Hackensack, New Jersey 07601-0769	Burlington County Clerk Courts Facility, First Floor 49 Rancocas Road Post Office Box 655 Mount Holly, New Jersey 08060
Camden County Clerk Civil Processing Office Hall of Justice, First Floor 101 South Fifth Street Camden, New Jersey 08103	Cape May County Clerk Cape May Superior Court Four Moore Road, DN 203 Nine North Main Street Cape May, New Jersey 08210	Cumberland County Clerk Cumberland County Civil Case Management Office Post Office Box 615 Bridgeton, New Jersey 08302
Essex County Clerk 237 Hall of Records 465 Martin Luther King, Jr. Blvd. Newark, New Jersey 07102	Gloucester County Clerk Gloucester County Courthouse Civil Case Management Office One North Broad Street, First Floor Woodbury, New Jersey 08096	Hudson County Clerk Civil Records Department Brennan Courthouse, First Floor 583 Newark Avenue Jersey City, New Jersey 07306
Hunterdon County Clerk Civil Division Office Hall of Records 71 Main Street Flemington, New Jersey 08822	Mercer County Deputy Clerk Mercer County Courthouse 209 South Broad Street Post Office Box 8068 Trenton, New Jersey 08650	Middlesex County Clerk Superior Court, Law Division Administration Building, 3rd Floor Post Office Box 2633 New Brunswick, New Jersey 08903-2633
Monmouth County Clerk Monmouth County Courthouse 71 Monument Park, West Wing Post Office Box 1252 Freehold, New Jersey 07728	Morris County Clerk Morris County Civil Division Post Office Box 910 Morristown, New Jersey 07963-0910	Ocean County Clerk 119 Courthouse 118 Washington Street Toms River, New Jersey 08754
Passaic County Clerk Passaic County Courthouse Civil Division Office 77 Hamilton Street Paterson, New Jersey 07505	Salem County Clerk 92 Market Street Post Office Box 18 Salem, New Jersey 08079	Somerset County Clerk Somerset County Courthouse Civil Division Office, Third Floor Post Office Box 3000 Somerville, New Jersey 08876
Sussex County Clerk Sussex County Civil Division Judicial Center 43-47 High Street Newton, New Jersey 07860	Union County Deputy Clerk Union County Courthouse Two Broad Street, Room 107 Post Office Box 6073 Elizabeth, New Jersey 07207-6703	Warren County Clerk Warren County Courthouse Civil Division Office 413 Second Street Belvidere, New Jersey 07823

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THE PLASTIC SURGERY CENTER, P.C.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION CIVIL DIVISION
MONMOUTH COUNTY

Plaintiff

DOCKET NO: MON-L- 41607

vs.

AETNA HEALTH, INC.

Defendants : COMPLAINT AND JURY DEMAND

Plaintiff, The Plastic Surgery Center, P.A. ("TPSC"), by and through its attorneys, Maggs & McDermott, LLC, by way of complaint against the Defendant, Aetna Health, Inc. ("Aetna"), alleges as follows:

1. TPSC is a professional association organized and existing under the laws of the State of New Jersey, and a licensed medical practice specializing in plastic and reconstructive surgery which maintains its principal place of business at 535 Sycamore Avenue, Shrewsbury, New Jersey 07702.
2. Aetna is a health insurance company authorized to conduct business in the State of New Jersey with offices located at 980 Jolly Road, Blue Bell, Pennsylvania 19422.

3. At all relevant times, Aetna operated a Health Maintenance Organization that provided medical benefits to J.L., the initials of a person to whom Aetna assigned Member ID Number W200738801-02.
4. On or about July 28, 2014, Aetna contracted with TPSC to provide multi-stage breast reconstruction surgery to J.L., along with related medical services, and to pay TPSC according to the usual and customary prevailing rates TPSC receives for those services.
5. On August 5, 2014, TPSC provided to J.L. the first stage of bilateral breast reconstruction surgery, including double mastectomy and the placement of tissue expanders.
6. TPSC issued a bill for services to Aetna for the services described in the preceding paragraph in the amount of \$176,524.00.
7. On or about September 9, 2014, Aetna paid TPSC \$93,650.20 for the medical services provided to J.L. on August 5, 2014.
8. On October 2, 2014, TPSC provided to J.L. the second stage of bilateral breast reconstruction surgery, which included the placement of implants.
9. TPSC issued a bill for services to Aetna for the services described in the preceding paragraph in the amount of \$53,326.00.
10. Despite repeated demands and appeals by TPSC, Aetna has refused to make any payment for the medical services provided by TPSC to J.L. on October 2, 2014.
11. During a follow-up office visit on November 19, 2014, TPSC discovered that a suture had been pulled, resulting in an opening of J.L.'s right infra mammary incision. TPSC determined that this condition required urgent surgical intervention and immediately scheduled J.L. for surgery on the following day.

12. On November 20, 2014, TPSC provided medical services to J.L. consisting of surgery, including implant replacement.
13. TPSC issued a bill for services to Aetna for the services described in the preceding paragraph in the amount of \$62,892.00.
14. On or about January 21, 2015, Aetna paid TPSC \$1,883.84 for the medical services provided to J.L. on November 20, 2014.
15. All the medical services provided by TPSC mentioned anywhere in this complaint were medically reasonable and necessary.

COUNT ONE
Breach of Contract

16. TPSC repeats the foregoing paragraphs of the Complaint as if the same were set forth herein.
17. TPSC and Aetna entered in to a contract for TPSC to perform multi-stage breast reconstruction surgery on J.L. and to provide related, necessary medical services.
18. TPSC provided all the medical services contracted for, but Aetna has failed and refused to pay TPSC for those services as agreed between the parties.

COUNT TWO
Unjust Enrichment

19. TPSC repeats the foregoing paragraphs of the Complaint as if the same were set forth herein.
20. TPSC conferred a benefit upon Aetna under circumstances where Aetna knew or should have known that TPSC expected to be compensated for the benefit.
21. The benefits conferred by TPSC included fulfilling Aetna's contractual obligation to J.L. and Aetna's obligation to comply with N.J.S.A. 26:2J-4.14.

22. Under the circumstances, it would be unfair to permit Aetna to retain the benefits conferred upon it without compensation to TPSC.

COUNT THREE
Promissory Estoppel

23. TPSC repeats the foregoing paragraphs of the Complaint as if the same were set forth herein.
24. Aetna made a clear and definite promise to pay TPSC the usual and customary prevailing rates for the medical services provided to J.L. and should have expected that TPSC would rely upon that promise.
25. Aetna should have expected TPSC to rely upon its promise because, among other reasons, Aetna knew or should have known that TPSC's physicians were going to provide all the medically reasonable and necessary to properly treat D.W.
26. TPSC relied on Aetna's promise to its detriment, causing substantial damages equal to the reasonable value of the medical services provided by TPSC.

WHEREFORE, TPSC demands judgment against Aetna in an amount equal to the reasonable value of the uncompensated medical services TPSC provided to J.L., plus interest, costs of suit, and any other relief that the Court deems to be equitable and just.

CERTIFICATION

Pursuant to R.4:5-1, the matter in controversy is not the subject in any other action pending in any court or in any pending arbitration proceeding, nor is any arbitration proceeding contemplated. The Plaintiff is not aware of any other parties who should not be joined in this action at this time.

DESIGNATION OF TRIAL COUNSEL

JAMES A. MAGGS, ESQ. is hereby designated as trial counsel for the Plaintiff in the within matter.

JURY DEMAND

The Plaintiff hereby demands a trial by jury as to all issues herein.

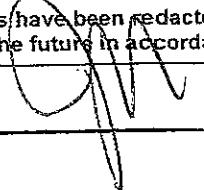
MAGGS & McDERMOTT, LLC
Attorneys for Plaintiff

By:

 JAMES A. MAGGS

Dated: October 25, 2017

Appendix XII-B1

	CIVIL CASE INFORMATION STATEMENT (CIS)		FOR USE BY CLERK'S OFFICE ONLY PAYMENT TYPE: <input type="checkbox"/> CK <input type="checkbox"/> CG <input type="checkbox"/> CA CHG/CK NO. _____ AMOUNT: _____ OVERPAYMENT: _____ BATCH NUMBER: _____
	Use for initial Law Division Civil Part pleadings (not motions) under Rule 4:5-1 Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or attorney's signature is not affixed		
ATTORNEY / PROSE NAME JAMES A. MAGGS, ESQUIRE		TELEPHONE NUMBER (732) 223-9870	COUNTY OF VENUE Monmouth
FIRM NAME (if applicable) MAGGS & McDERMOTT, LLC		DOCKET NUMBER (when available)	
OFFICE ADDRESS 3349 HWY. 138, BUILDING C, SUITE D WALL, NJ 07719		DOCUMENT TYPE COMPLAINT	
		JURY DEMAND <input checked="" type="checkbox"/> YES <input type="checkbox"/> No	
NAME OF PARTY (e.g., John Doe, Plaintiff) THE PLASTIC SURGERY CENTER, P.A., Plaintiff		CAPTION THE PLASTIC SURGERY CENTER vs. AETNA HEALTH, INC.	
CASE TYPE NUMBER (See reverse side for listing) 502	HURRICANE SANDY RELATED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES," SEE N.J.S.A. 2A:53 A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.	
RELATED CASES PENDING? <input type="checkbox"/> YES <input checked="" type="checkbox"/> No		IF YES, LIST DOCKET NUMBERS	
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence)? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO		NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY (if known) <input type="checkbox"/> NONE <input type="checkbox"/> UNKNOWN	
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE.			
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION			
DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <input type="checkbox"/> YES <input checked="" type="checkbox"/> No	IF YES, IS THAT RELATIONSHIP: <input type="checkbox"/> EMPLOYER/EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS		
DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION			
This case does not contain any special characteristics that may warrant individual management or accelerated disposition.			
 DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION	
WILL AN INTERPRETER BE NEEDED? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		IF YES, FOR WHAT LANGUAGE?	
I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with Rule 1:38-7(b).			
ATTORNEY SIGNATURE: 			

MONMOUTH COUNTY
SUPERIOR COURT
PO BOX 1269
FREEHOLD
NJ 07728

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (732) 677-4240
COURT HOURS 8:30 AM - 4:30 PM

DATE: NOVEMBER 20, 2017
RE: THE PLASTIC SURGERY CENTER VS AETNA HEALTH INC
DOCKET: MON L-004196 17

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 1.

DISCOVERY IS 150 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON DENNIS R. O'BRIEN

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 003

AT: (732) 677-4262 EXT 4262.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R. 4:5A-2.

ATTENTION:

ATT: JAMES A. MAGGS
MAGGS & MC DEMOTT
ATTN: MR. COPORATE CTR
3349 HIGHWAY 138 BLDG C STE D
MAIL NJ 07719

JUNNIAL2

